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BEFORE THE ARIZONA CORPORATION COMMISSION

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2002 MAY 30 P 3:15

AZ CORP COMMISSION
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WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

DOCKET NO. E-01032C-00-0751

IN THE MATTER OF THE APPLICATION OF
THE ARIZONA ELECTRIC DIVISION OF
CITIZENS COMMUNICATIONS COMPANY TO
CHANGE THE CURRENT PURCHASED POWER
AND FUEL ADJUSTMENT CLAUSE RATE, TO
ESTABLISH A NEW PURCHASED POWER AND
FUEL ADJUSTMENT CLAUSE BANK, AND TO
REQUEST APPROVED GUIDELINES FOR THE
RECOVERY OF COSTS INCURRED IN
CONNECTION WITH ENERGY RISK
MANAGEMENT INITIATIVES.

**ERRATA TO STAFF'S RESPONSE
TO BROWN & BAIN'S REPLY IN
SUPPORT OF THE NOTICE OF
APPEARANCE OF SUBSTITUTE
COUNSEL**

At page 2, lines 6-8, references to "Brown & Bain" should read "Gallagher & Kennedy."

RESPECTFULLY SUBMITTED this 30th day of May, 2002.

Christopher C. Kempley

Christopher C. Kempley, Chief Counsel
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The original and ten copies of the
foregoing filed this 30th day of
May, 2002, with:

Docket Control
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Arizona Corporation Commission
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MAY 30 2002

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1 COPIES of the foregoing were mailed/
2 this 30th day of May, 2002 to:

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Arizona Corporation Commission
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Company/Case Name Arizona Electric Division of Citizens Communications Company
Doing Business As (d/b/a) _____
Docket Number (s) E-01032C-00-0751 AZ CORP COMMISSION DOCUMENT CONTROL

Description of Document or Nature of Action
Please choose the item that best describes the nature of the case/filing.

UTILITIES - NEW APPLICATION

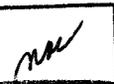
- New CC&N
- Rates
- Interim Rates
- Cancellation of CC&N
- Deletion of CC&N
- Extension of CC&N
- Tariff (NEW)
- Request for Arbitration
- Full or Partially Arbitrated
- Interconnection Agreement
- Voluntary Interconnection Agreement
- Miscellaneous - Specify: _____
- Main Extension
- Contract/Agreements
- Formal Complaint
- Waiver/Rule Variance
- Line Sitting Committee Case
- Small Water Company - Surcharge
- Sale of Assets & Transfer of Ownership
- Sale of Assets & Cancellation of CC&N
- Fuel Adjuster/PGA
- Merger
- Financing

UTILITIES - REVISIONS/AMENDMENTS TO PENDING OR APPROVED MATTERS

- Application:
 - Company _____
 - Docket Number _____
- Tariff: (Promotional or Compliance) (Circle One)
- Decision No. _____
- Docket No: _____

SECURITIES or MISCELLANEOUS FILINGS

- Affidavit (Publication, Public Notice)
- Comments
- Exceptions
- Exhibit(s)
- Notice of Appearance/Intent
- Notice of Errata
- Opposition
- Petition
- Other: _____
- _____
- _____
- _____
- Request/Motion for Extension of Time
- Request/Motion for a Hearing
- Request/Motion for an Intervention
- Miscellaneous Request/Motion
- Request/Motion for a Re-hearing
- Request/Motion to Continue Hearing
- Request/Motion to Strike
- Response
- Testimony
- Waiver
- Witness List

DOCKETED
MAY 29 2002
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5/29/02
Date

Daniel W. Pozefsky
Please print the name of the person whose signature appears on the filing (i.e. Contact Person, Respondent, Attorney, Applicant, etc.)

BEFORE THE ARIZONA CORPORATION COMMISSION

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WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

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AZ CORP COMMISSION
DOCUMENT CONTROL

IN THE MATTER OF THE APPLICATION
OF THE ARIZONA ELECTRIC DIVISION
OF CITIZENS COMMUNICATIONS
COMPANY TO CHANGE THE CURRENT
PURCHASED POWER AND FUEL
ADJUSTMENT CLAUSE RATE, TO
ESTABLISH A NEW PURCHASED
POWER AND FUEL ADJUSTMENT
CLAUSE BANK, AND TO REQUEST
APPROVED GUIDELINES FOR THE
RECOVERY OF COSTS INCURRED IN
CONNECTION WITH ENERGY RISK
MANAGEMENT INITIATIVES.

Docket No. E-01032C-00-0751

**RUCO'S RESPONSE TO CITIZENS'
REPLY**

Arizona Corporation Commission
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MAY 29 2002

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Pursuant to the Procedural Order of May 24, 2002, the Residential Utility Consumer Office ("RUCO") submits its response to Citizens' Communication Company's ("Citizens") Reply in Support of Its Notice of Appearance of Substitute Counsel ("Reply").

RUCO is unable to take a position at this time on whether Mr. Mais should be disqualified, given the representations in counsel's reply to the motions by the Counties and Staff. In his Rebuttal testimony, Paul M. Flynn states that local counsel (presumably Mr. Mais of Brown & Bain) "reinforced" Wright & Talisman's conclusion that a preliminary injunction precluding APS' interpretation of the contract would be very difficult to obtain since Citizens' claim was a contract action for which money damages were available. Flynn Rebuttal at 10. On the other hand, the Mais memorandum of April 26, 2001, suggests that Citizens might overcome these obstacles by, among other things, arguing the substantial impact of the

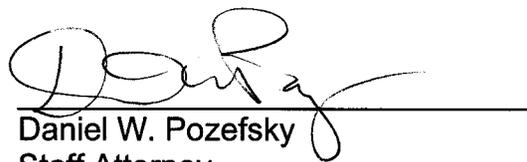
1 dispute on ratepayers. This presents a discrepancy between Mr. Flynn, who opined that the
2 dispute is a straight contract issue, and Mr. Mais, who listed other considerations that Citizens'
3 should explore in deciding whether to pursue civil litigation.

4 Citizens' Reply amplifies the discrepancy. The Reply states that Citizens engaged
5 Brown & Bain merely for procedural purposes, leaving the implication that communications
6 between Citizens and the law firm did not involve substantive matters that might bear on the
7 prudence of Citizens' actions on behalf of ratepayers. Yet a fair reading of the Mais
8 memorandum of April 26, 2001, suggests that there were other considerations that the local
9 federal or state court could consider to expedite any relief due to Citizens.

10 RUCO recommends that the Commission investigate and explore whether the
11 Company's communications to Mr. Mais prior to the April 26, 2002 memo contradict the
12 testimony filed by Mr. Flynn before deciding the disqualification issue. A preliminary hearing
13 should be scheduled at which Mr. Mais should be required to testify. Since much of this
14 information has been and continues to be developing, the Commission should not preclude the
15 possibility that a party call Mr. Mais as a witness at the ultimate hearing merely because he
16 was not listed pursuant to the initial procedural order in this matter.

17 RUCO requests that the Commission delay ruling on the Counties' objections to the
18 substitution of counsel and that a preliminary hearing be scheduled for the purpose of taking
19 the testimony of Mr. Mais.

20 RESPECTFULLY SUBMITTED this 29th day of May, 2002.

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Daniel W. Pozefsky
Staff Attorney

1 AN ORIGINAL AND TEN COPIES
2 of the foregoing filed this 29th day
3 of May, 2002 with:

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6 COPIES of the foregoing hand delivered/
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